



March 24, 2008

M. Brooke Halsey  
TimberHomes, LLC  
993 Darling Hill Road  
Vershire, VT 05079

Re: Jurisdictional Opinion #3-120  
TimberHomes / Vershire Fire & Rescue Building, Vershire

Hello Brooke:

This letter is in response to your question of whether or not Act 250 jurisdiction would attach to the project you are proposing in Vershire. It is my opinion that demolishing the existing "old firehouse" and constructing another structure requires an Act 250 permit. This opinion is based on the following:

#### Background

1. David Hooke, Timo Bradley, Sean Dalton, Brooke Halsey and Joshua Jackson share ownership of TimberHomes LLC, a timber framing company.
2. The Vershire Fire & Rescue services recently moved from the old firehouse building at 6335 Route 113 in Vershire to another location in Vershire and TimberHomes is currently renting the old firehouse for workspace. The old firehouse property is 0.6 acres.
3. TimberHomes proposes to obtain the Vershire Fire & Rescue property ("old firehouse property"), demolish the building, and construct a timber framed shop for their business. The new shop will include covered wood storage sufficient to house all of the raw material. The property will be used to temporarily store logs, operate a portable saw mill, and provide parking for small trucks and machinery.
4. Timo Bradley owns a 30 acre tract of land that is contiguous to the old firehouse property. Timo Bradley's property also has an access off Route 113 across a right-of-way running between the old firehouse property. The TimberHomes operation would occur solely on the 0.6 acre old firehouse property. It is not anticipated that any part of the business will occur on the Bradley property.
5. David Hook owns a seven acre tract of land at 184 North Road, within five miles of the old firehouse property. His property is not and would not be incidental to the use of the old firehouse property as the timber framing shop.

6. Vershire has adopted both zoning and subdivision bylaws.

### Statutes and Rules

1. 10 V.S.A. § 6001(3)(A)(i) defines “development” as:

The construction of improvements on a tract or tracts of land, owned or controlled by a person, involving more than 10 acres of land within a radius of five miles of any point on any involved land, for commercial or industrial purposes in a municipality that has adopted permanent zoning and subdivision bylaws.

2. 10 V.S.A. § 6001(14)(A)(i) defines “person” in part as:

. . . an individual, partnership, corporation, association, unincorporated organization, trust or other legal or commercial entity, including a joint venture or affiliated ownership.

3. Act 250 Rule 2(C)(2) defines “commencement of construction” as:

. . . the construction of the first improvement on the land or to any structure or facility located on the land including work preparatory to construction such as clearing, the staking out or use of a right-of-way or in any way incidental to altering the land according to a plan or intention to improve or to divide land by sale, lease, partition, or otherwise transfer an interest in the land.

4. Act 250 Rule 2(C)(3) defines “construction of improvements”, in part, as:

. . . any physical action on a project site which initiates development for any purpose enumerated in Rule 2(A). . .

5. Act 250 Rule 2(A) states that the term “development”, relating to Act 250 jurisdiction, is defined at 10 V.S.A. §§ 6001(3)(A), 6001a, 6001b, and 6001c.

6. Act 250 Rule 2(C)(12) states that “tract of land” means one or more physically contiguous parcels of land owned or controlled by the same person or persons.

### Discussion

The tract of land is the 0.6 acre tract controlled by TimberHomes LLC and the 30 contiguous acres owned by Timo Bradley. Demolition of the old firehouse is the commencement of construction for a commercial purpose on land of greater than ten acres owned or controlled by a “person”. The “person” in this case is any one of the four individuals that are partners in the TimberHomes LLC as well as together, as partners.

The former Environmental Board, in its decision regarding Richard and Barbara Woodard (#5W1262-EB, Dec. 18, 1997), ruled that “when determining whether Act 250 applies to commercial and industrial projects, the entire tract or tracts of land upon which the development or improvement occurs will be counted.”

Mr. Hook’s property is not contiguous to the 0.6 acre old firehouse tract, and is not incidental to the operation of the business, therefore, is not considered when determining jurisdiction for the project.

### Conclusion

The construction of improvements, including demolition, for commercial purpose on the 0.6 acre old firehouse property requires an Act 250 permit.

Please do not hesitate to contact me at 802-885-8843.

Sincerely,

Linda Matteson /s/

Linda Matteson  
District 3 Environmental Commission

c: Certificate of Service

This is a jurisdictional opinion issued pursuant to 10 V.S.A. § 6007(c) and Act 250 Rule 3.

Reconsideration requests are governed by Act 250 Rule 3(B) and should be directed to the district coordinator at the above address. Any appeal of this decision must be filed with the clerk of the Environmental Court within 30 days of the date of issuance, pursuant to 10 V.S.A. Chapter 220. The appellant must attach to the Notice of Appeal the entry fee of \$225.00, payable to the State of Vermont. The appellant must also serve a copy of the Notice of Appeal on the Natural Resources Board, National Life Records Center Building, Drawer 20, Montpelier, VT 05620-3201, in accordance with Rule 5(b)(4)(B) of the Vermont Rules for Environmental Court Proceedings.

For further information, see the Vermont Rules for Environmental Court Proceedings, available on line at [www.vermontjudiciary.org](http://www.vermontjudiciary.org). The Environmental Court mailing address is: Environmental Court, 2418 Airport Road, Suite 1, Barre, VT 05641-8701. (Tel: 802-828-1660)

